

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN M. GRUTTEMEYER, an individual,

Plaintiff,

vs.

THE TRANSIT AUTHORITY OF THE
CITY OF OMAHA D/B/A METRO AREA
TRANSIT, a Nebraska corporation,

Defendant.

CASE NO. 8:18-cv-70

**MOTION TO STAY EXECUTION OF
JUDGMENT PENDING APPEAL AND
APPROVAL OF SUPERSEDEAS BOND**

COMES NOW Defendant The Transit Authority of the City of Omaha d/b/a Metro Area Transit (“Metro”), and pursuant to Fed. R. App. P. 8 and Fed. R. Civ. P. 62, hereby requests an approval of a Supersedeas Bond (“Bond”) or Letter of Credit (“Letter of Credit”) and a stay of execution on the judgment entered in favor of Plaintiff John M. Gruttemeyer (“Gruttemeyer”) in the above-captioned matter, pending the disposition of Metro’s anticipated appeal to the United States Court of Appeals for the Eighth Circuit. In support of said Motion, Metro states as follows:

1. On March 30, 2020, the Court entered judgment, pursuant to the jury verdict, in favor of Gruttemeyer and against Metro in the amount of \$139,540.94 (the “Judgment”). (Doc. No. 108).

2. On April 2, 2020, Metro filed a Renewed Motion for Judgment as a Matter of Law, or in the Alternative, Motion for New Trial (collectively, the “Post-Trial Motions”). (Doc. No. 109).

3. On April 30, 2020, in accordance with the Bill of Costs Handbook, the Court taxed to Metro Gruttemeyer’s costs in the amount of \$2,517.20. (Doc. No. 121).

4. On May 29, 2020, the Court denied Metro's Post-Trial Motions. (Doc. No. 122).

5. On June 12, 2020, Gruttemeyer filed a Motion for Attorneys' Fees, requesting that the Court enter an additional judgment against Metro in the amount of \$103,054.50. The Court has not yet issued a ruling on Gruttemeyer's Motion for Attorneys' Fees.

6. Metro intends to pursue a timely appeal of the Judgment to the United States Court of Appeals for the Eighth Circuit.

7. Pursuant to Fed. R. App. P. 8, Metro moves this Court to stay enforcement of the Judgment pending appeal.

8. Pursuant to the Fed. R. Civ. P. 62, Metro may obtain a stay of the Judgment by providing a bond or other security.

9. In accordance with Fed. R. Civ. P. 62, Metro has secured a Bond or Letter of Credit sufficient to provide security for the total amount awarded to Gruttemeyer, including interests and costs. Due to delays related to the COVID pandemic, Metro does presently not have a physical copy of the Bond or Letter of Credit, but it will supplement this Motion upon receipt of such copy.

10. The Bond or Letter of Credit will remain in full force and effect as security for the Judgment until such time as the issues on appeal are resolved.

11. Metro requests an Order stating that no proceedings may be brought to enforce this Court's Judgment in favor of Gruttemeyer (both the underlying Judgment, interest, costs and any award of attorney fees) until 30 days after the final disposition of the appeal to be filed before the United States Court of Appeals for the Eighth Circuit.

WHEREFORE, Defendant The Transit Authority of the City of Omaha d/b/a Metro Area Transit respectfully requests that the Court enter an Order:

1. Approving the Supersedeas Bond or Letter of Credit; and
2. Staying enforcement of the Judgment entered in favor of Plaintiff John M. Gruttemeyer, inclusive of interest, costs and any award of attorney fees, until 30 days after the final disposition of the appeal to be filed before the United States Court of Appeals for the Eighth Circuit.

Dated this 29th day of June, 2020.

THE TRANSIT AUTHORITY OF THE CITY OF
OMAHA D/B/A METRO AREA TRANSIT,
Defendant

By: /s/ Ryan M. Kunhart
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CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Alexis S. Mullaney alexis@carlsonburnett.com

/s/ Ryan M. Kunhart
Ryan M. Kunhart